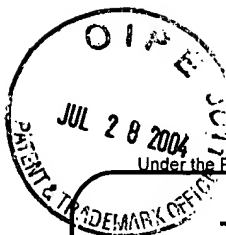


ITW 3728

# BEST AVAILABLE COPY



(Substitute) PTO/SB/21 (02-04)

Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	09/922,239
Filing Date	August 3, 2001
First Named Inventor	Cheryl Steed, et al.
Art Unit	3728
Examiner Name	Marie D. Patterson
Attorney Docket Number	G2001/20004

Total Number of Pages in This Submission

34

### ENCLOSURES (Check all that apply)

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Fee Transmittal Form (in duplicate)<br><input type="checkbox"/> Fee Attached<br><input type="checkbox"/> Amendment/Reply<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Response to Missing Parts/Incomplete Application<br><input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><input checked="" type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation<br><input type="checkbox"/> Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) _____ | <input type="checkbox"/> After Allowance communication to Technology Center (TC)<br><input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences<br><input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):<br>Exhibits A through G and return receipt postcard |
|--|---|---|

Remarks

Please charge Attorney Account No. 03-0075 as necessary to effect entry and/or ensure consideration of this submission.

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Caesar, Rivise, Bernstein, Cohen & Pokotilow, Ltd.; Customer No. 03000
Signature	
Date	July 26, 2004

### CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below. [Transmitted to Facsimile No. (703) \*]

Typed or printed name	Barry A. Stein, Esq.		
Signature		Date	July 26, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
PATENT EXAMINING OPERATION**

Applicants: Cheryl STEED, et al.

Serial No: 09/922,239

Group Art Unit: 3728

Filed: August 3, 2001

Examiner: Marie D. Patterson

Att. Docket No.: G2001/20004

Confirmation No.: 7541

For: Disposable Shoe Insert

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT  
BASED ON FAILURE TO RECEIVE OFFICE ACTION (MPEP §711.03(c)II)**

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants hereby petition to withdraw the holding of abandonment based on failure to receive an Office Action.

Applicants filed a Revocation of Power of Attorney and Appointment of New Power of Attorney (a copy of which is attached as Exhibit A) dated August 5, 2003 appointing the undersigned's law firm as attorneys of record. A return receipt post card (a copy of which is attached as Exhibit B) dated August 18, 2003 confirms receipt of the Revocation of Power of Attorney and Appointment of New Power of Attorney by the PTO.

Applicants filed an RCE dated August 27, 2003 in response to an Office Action (dated April 18, 2003). A return receipt post card (a copy of which is attached as Exhibit C) confirms receipt of this response and identifies the undersigned's law firm.

By February 2004, when no Office Action was received from the PTO based on the previously-filed RCE, several inquiries were made to the PTO and the undersigned's law firm was

Application No. 09/922,239  
Petition to Withdraw Holding of Abandonment dated

told that an Office Action had been issued in September 2003. A call was placed with Examiner Patterson on March 29, 2004 but no response was received.

On April 16, 2004, the undersigned's law firm received a Notice of Acceptance of Power of Attorney dated April 14, 2004 (a copy of which is attached as Exhibit D).

On May 27, 2004, Scott Slomowitz, a partner in the undersigned's law firm, contacted Examiner Patterson to request a copy of the September 2003 Office Action in order to prepare a response to accompany this petition. The Examiner had Mr. Larry Schwartz fax a copy of the September 2003 Office Action to the undersigned's law firm on June 1, 2004. A copy of the September 2003 Office Action is attached as Exhibit E. As can be seen, the September 24, 2003 Office Action was never sent to the undersigned's law firm but rather was sent to the law firm (Gottlieb, Rackman & Reisman, P.C.) whose powers had been revoked in August 2003 (see Exhibit A). Furthermore, the "Office Action Summary" sheet confirms that the September 24, 2003 Office Action was responsive to the communication (i.e, the RCE) received by the PTO on September 2, 2003 (see Exhibit C).

The Office Action dated September 24, 2003 was not received by the undersigned's law firm and that a search of the file jacket and docket records indicate that that Office Action was not received. Enclosed as Exhibit F is a copy of the docket record where the non-received Office Action would have been entered had it been received and docketed.

In view of the foregoing, Applicants submit that the present application went abandoned based on PTO error, not on the part of Applicants, and therefore no fee is due. However, if it is

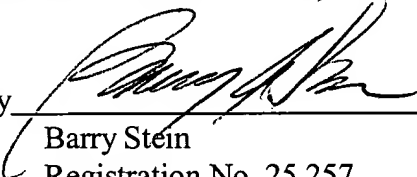
Application No. 09/922,239  
Petition to Withdraw Holding of Abandonment dated

deemed appropriate, the PTO is hereby authorized to debit Deposit Account No. 03-0075.

Applicants respectfully request the withdrawal of the holding of abandonment and have enclosed herewith a response (see attached Exhibit G) to the Office Action for consideration by the Examiner.

Respectfully submitted,

CAESAR, RIVISE, BERNSTEIN,  
COHEN & POKOTILOW, LTD.

By 

Barry Stein  
Registration No. 25,257  
Customer No. 03000  
(215) 567-2010  
Attorneys for Applicants

July 26, 2004

Please charge or credit our Account  
No. 03-0075 as necessary to effect  
entry and/or ensure consideration of  
this submission.

G2001/20004

Customer No. 03000



PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**PATENT EXAMINING OPERATION**

Applicants	:	Steed et al.
Application No.	:	09/922,239
Confirmation No.	:	7541
Filed	:	August 3, 2001
For	:	<b>DISPOSABLE SHOE INSERT</b>
Group Art Unit	:	3728
Examiner	:	Marie D. Patterson

---

**REVOCATION OF POWER OF ATTORNEY AND  
APPOINTMENT OF NEW POWER OF ATTORNEY**

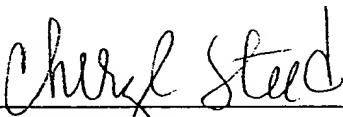
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

CHERYL STEED and MARIA RODEK, the applicants and inventors of the above-entitled invention, hereby revoke all previous Powers of Attorney granted in the above-identified patent application and do hereby appoint Alan H. Bernstein (Registration No. 19,315); Stanley H. Cohen (Registration No. 20,235); Manny D. Pokotilow (Registration No. 22,492); Barry A. Stein (Registration No. 25,257); Martin L. Faigus (Registration No. 24,364); Eric S. Marzluf (Registration No. 27,454); Robert S. Silver (Registration No. 35,681); Scott M. Slomowitz (Registration No. 39,032); Michael J. Berkowitz (Registration No. 39,607); David M. Tener (Registration No. 37,054); James J. Kozuch (Registration No. 39,733); Frank M. Linguiti (Registration No. 32,424);

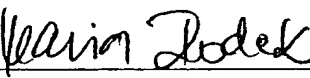
Gary A. Greene (Registration No. 38,897); Michael J. Cornelison (Registration No. 40,395); Allan H. Fried (Registration No. 31,253); Bruce J. Chasan (Registration No. 38,764); and Marina E. Volin (Registration No. 52,328), care of Caesar, Rivise, Bernstein, Cohen & Pokotilow, Ltd., 12th Floor, Seven Penn Center, 1635 Market Street, Philadelphia, Pennsylvania 19103-2212, my attorneys with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

All correspondence in connection with this application should be sent to **Barry A. Stein**, at Caesar, Rivise, Bernstein, Cohen & Pokotilow, Ltd., 12<sup>th</sup> Floor, Seven Penn Center, 1635 Market Street, Philadelphia, Pennsylvania 19103-2212. Telephone: (215) 567-2010. Telecopier: (215) 751-1142.

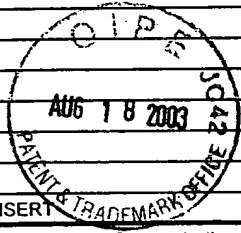
August 5, 2003

By   
Cheryl Steed

August 5, 2003

By   
Maria Rodek

The PTO stamp upon this card acknowledges the receipt of the checked items below regarding the matter identified at right.	Application No.:	09/922,239
	Filing Date:	August 3, 2001
	First Named Inventor:	Cheryl Steed
	Group Art Unit:	3728
	Confirmation No.:	7541
	Examiner Name:	Marie D. Patterson
	Attorney Docket No.:	G2001/20004
	Title of Invention:	DISPOSABLE SHOE INSERT



<input checked="" type="checkbox"/> Transmittal Form <input type="checkbox"/> Fee Transmittal Form (in duplicate) <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits / declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts / Incomplete Application <input type="checkbox"/> Response to Missing Parts Under 37 CFR 1.52 or 1.53 <input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input checked="" type="checkbox"/> Power of Attorney, Revocation, Changes of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s):	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below): <input type="checkbox"/> Return Receipt Postcard  GAG:BAS:db Date mailed: August 14, 2003
---	--	---

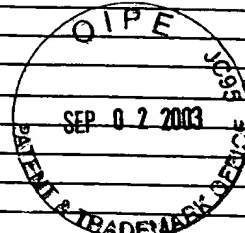
App. Serial No.:	09/922,239
First Inventor:	Cheryl Steed
Filing Date:	August 3, 2001
Title of Invention:	DISPOSABLE SHOE INSERT
Group Art Unit:	3728
Examiner Name:	Marie D. Patterson
Confirmation No:	7541
Atty. Docket No.:	G2001/20004

✓

The PTO stamp upon this card acknowledges the receipt of the following items regarding the matter identified above: **Transmittal Form, Fee Transmittal Form (in duplicate), Request for Continued Examination (RCE) Transmittal, Petition for Extension of Time (2 mos. ), and Amendment.**

BAS:db  
Re : Glaug, Maria Rodek

Date Mailed: August 27, 2003







## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/922,239	08/03/2001	Cheryl Steed	4232/2

BARRY A. STEIN  
 CAESAR, RIVISE, BERNSTEIN, COHEN & POKOTILOW, LTD  
 12th FLOOR SEVEN PENN CENTER  
 1635 MARKET STREET  
 PHILADELPHIA, PA 19103-2212

CONFIRMATION NO. 7541



\*OC000000012353894\*

Date Mailed: 04/14/2004

## NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/29/2004.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.



RECEIVED  
 APR 16 2004

CAESAR, RIVISE, BERNSTEIN  
 COHEN & POKOTILOW, LTD.

EDNA F PAYTON  
 3700 (703) 305-3571

ATTORNEY/APPLICANT COPY



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/922,239	08/03/2001	Cheryl Steed	4232/2

Jeffrey M. Kaden  
 GOTTLIEB, RACKMAN & REISMAN, P.C.  
 COUNSELORS AT LAW  
 270 MADISON AVENUE  
 NEW YORK, NY 10016-0601

CONFIRMATION NO. 7541



\*OC000000012353725\*

Date Mailed: 04/14/2004

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/29/2004.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).



EDNA F PAYTON  
 3700 (703) 305-3571

NEW ATTORNEY/AGENT COPY

R E C E I V E D

JUN 01 2004

CAESAR, RIVISE, BERNSTEIN  
COHEN & GROSHEW, LLP

---

**Larry I. Schwartz****United States Patent & Trademark Office  
Customer Service Center, Technology Center 3700****703/306-5648**

---

**Date: 6/1/04****Total # of pages including cover sheet: 7****To: Scott Slomowitz****Recipient Fax: 215-751-1142****From: Larry I. Schwartz  
Administrator  
Customer Service Center****Sender Fax: 703-872-9301****Memo:**

Attached is a copy of the last Office Action for SN 09/922,239 as requested.

---

**Fax•Fax•Fax•Fax•Fax•Fax•Fax•Fax•Fax•Fax•Fax•Fax**

BEST AVAILABLE COPY



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,239	08/03/2001	Cheryl Sted	4232/2	7541

7590

09/24/2003

Jeffrey M. Kaden  
 GOTTLIEB, RACKMAN & REISMAN, P.C.  
 COUNSELORS AT LAW  
 270 MADISON AVENUE  
 NEW YORK, NY 10016-0601

EXAMINER

PATTERSON, MARIE D

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 09/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



RECEIVED

JUN 01 2004

CAESAR, RIVISE, BERNSTEIN  
 COHEN & POKOTILOW, LTD.

**Office Action Summary**

Application No.

09/922,239

Applicant(s)

STEED ET AL

Examiner

Marie Patterson

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 49-61 is/are pending in the application.
- 4a) Of the above claim(s) 58 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 49-57, and 59-61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

Application/Control Number: 09/922,239  
Art Unit: 3728

Page 2

***Election/Restrictions***

1. Claim 58 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 7.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 49-57, and 59-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oakley (4864740) in view of Ogden (5388349) and/or Cintron (5675914) and Watt (4808458).

Oakley shows an insert comprising a synthetic non woven fabric layer (4), a non slip material (12, or coatings see column 3 lines 60-64), a material layer (10), and a surfactant on the fabric (column 3 lines 14-16) substantially as claimed except for the exact material for the synthetic non-woven fabric layer. Oakley states that the coefficient of friction for the bottom surface (16) of material (12) is greater than 170 (column 3 lines 40-45). Ogden teaches adjusting the coefficient of friction of a synthetic non woven top surface of an insert to above 0.5 (see column 11 lines 50-57). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the top having a coefficient of friction of between 0.52 and 0.82 which is above 0.5 as suggested by Ogden and within a common range of coefficients of friction

BEST AVAILABLE COPY

Application/Control Number: 09/922,239  
Art Unit: 3728

Page 3

of commonly used insole materials (such as leathers, synthetic leathers, etc.), since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233. It would have been obvious to provide the top layer with a coefficient of friction of above 0.5 as taught by Ogden in the insert of Oakley to increase the feeling of control of the footwear. Also, Cintron teaches the well known and conventional use of suede materials for the top layers of inserts (column 3 lines 1-2). Watt teaches a specific suede-like material (i.e. fake suede, synthetic suede) which has vertically disposed fibers (18). It would have been obvious to use a suede material as suggested by Cintron and to use the synthetic suede-like material taught by Watt for the nonwoven layer of the insert of Oakley to provide a soft and comfortable feel.

#### ***Response to Arguments***

4. Applicant's arguments filed 9/2/03 have been fully considered but they are not persuasive.

In response to applicants' argument that the material layer of Ogden is not a synthetic nonwoven, layer 4 of Ogden is synthetic (thermoplastic) material and it is nonwoven (not woven, it is extruded in sheet form, column 6 line 52). Ogden states that the vinyl acetate content of the thermoplastic material is variable to alter the coefficient of friction (column 6 lines 45-51) and clearly states that it is desirable to vary the coefficient of friction and teaches a coefficient of friction above 0.5 (column 11 lines 1-57). It would appear that it would have been obvious through discovery of workable ranges by one having routine skill in the art and as suggested by Ogden to merely raise

BEST AVAILABLE COPY

Application/Control Number: 09/922,239  
Art Unit: 3728

Page 4

the vinyl acetate content of the layer 20 to obtain a coefficient of friction of between 0.52 and 0.82 which are clearly above 0.5 and which is only a small amount above the 0.5 as suggested by Ogden to provide an enhanced feeling of control (as suggested by Ogden).

In response to applicants' arguments directed towards Cintron, Cintron has been merely used as a linking reference to show that it is well known and conventional to use suede like materials for the top of footwear inserts. Watt has been applied to show a specific suede like material. The material of Watt is clearly synthetic, nylon, polyester, polypropylene, etc. (see column 2 lines 15-20 and 40-50). Also, since this material is very similar if not the same material disclosed by applicant, i.e. a synthetic suede like material made with the vertical fibers being made from polyester or nylon fibers, the coefficient of friction of this material is considered to be inherently within the ranges claimed.

1. Telephone inquiries regarding the status of application or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the Examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148 or the **Tech Center 3700 Customer Service Center number is (703) 306-5648**. For applicant's convenience, the Group Technological Center FAX number is (703) 872-9302. (Note that the Examiner **cannot** confirm receipt of faxes) Please identify Examiner \_\_\_\_ of Art Unit \_\_\_\_ at the top of your cover sheet of any correspondence submitted.

Inquiries only concerning the merits of the examination should be directed to Marie Patterson whose telephone number is (703) 308-0069.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g. copies of references cited, form PTO-1449, for PTO-892, etc. requests for copies of such papers should be directed to (703) 308-1337.

Check out our web-site at "www.uspto.gov" for fees and other useful information.



BEST AVAILABLE COPY

Page 5

Application/Control Number: 09/922,239

Art Unit: 3728



Marie Patterson  
Primary Examiner  
Art Unit 3728

YOUR# G2001/20004

PRINTED ON: 2/3/2004

COUNTRY	US	UNITED STATES	TITLE		PRIOR	8/3/2001
NEW/CON	NEW	SERIAL#	09/922,239	DISPOSABLE SHOE INSERT	MAIL	
RELATED		PATENT#			FILE	8/3/2001
TYPE	UTL	STATUS	PUBLISHED		PUBL	6/6/2002
CLIENT	G2001	GLAUG, MARIA RODEK	1	CREF	ISSUE	
AGENT				AREF	1ST	8/3/2001
					EXP	8/3/2021

ID	O	ACTION	BASE	DUE IN	DUE	EXTNS	FINAL	EXT	RESPONSE	CALL UP	1	2	P
Z6	N	STATUS CHECK (GEN)	8/3/2001	6M	2/3/2002	126	2/3/2008	4		1M	Y	Y	Y
R1	N	RESPONSE TO OA (1MO)	9/13/2002	1M	10/13/2002	51	3/13/2003	5	10/21/2002	0M	Y	Y	Y
RE	N	RESPONSE TO OA	11/12/2002	3M	2/12/2003	31	5/12/2003	3	3/12/2003	1M	Y	Y	Y
E1	N	1 MONTH EXT OF TIME	2/12/2003	1M	3/12/2003	0	3/12/2003	0	3/12/2003	1M	Y	Y	Y
FR	N	RESP TO FINAL REJECT	4/18/2003	3M	7/18/2003	31	10/18/2003	2	8/27/2003	1M	Y	Y	Y
VR	Y	REVOCATION/POA	8/5/2003						8/14/2003				
CX	Y	RQST CONTINUED EXAM	8/27/2003										
E2	N	2 MONTH EXT OF TIME	7/18/2003	2M	9/18/2003	0	9/18/2003	0	8/27/2003	1M	Y	Y	Y
NA	N	NOTICE OF APPEAL	4/18/2003	6M	10/18/2003		10/18/2003	0	8/27/2003	1M	Y	Y	Y
RCE FILED.													

## INVENTORS

STEED, CHERYL

RODEK, MARIA

Non-Received  
Office Action  
would have been  
entered here

## PRIOR APPLICATIONS

REFERENCE#	CNTRY	SERIAL#	FILED	TITLE / DESCRIPTIO	TYPE
	US	60/224,302	8/10/2000		APPL

## USER-DEFINABLE FIELDS

ART#	
LOC	
PBL#	

## PATENT FIELDS

SMALL ENTITY		ART UNIT	3728
CLAIMS	31	EXAMINER	
PUBLICATION#	US-2002-0066209-A1	CONFIRM#	7541

P02747US00	ENTERED	9/2/2003	MODIFIED	1/30/2004	BY	cj	ATTORNEYS	BAS	/	BAS	/	BAS
------------	---------	----------	----------	-----------	----	----	-----------	-----	---	-----	---	-----